

29 August 2017

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: *Docket No. 17-108, Restoring Internet Freedom, Reply Comments in response to*
<https://www.fcc.gov/ecfs/filing/107182762524959>

Dear Ms. Dortch:

A group of European advocacy organizations under the title “Access Now” submitted comments saying the zero rating is a threat to the Internet. This submission counters that statement and submits facts and economic analysis to the record.

In point of fact the European competition authorities, Director General for Competition (DG Comp) have published the definitive report on the practice, titled **“Zero Rating Practices in Broadband Markets”**, concluding that it does not create competitive threats to the Internet. The report is attached and references my work. I offer a summary of the report in the attached article **“EU report finds zero-rating doesn’t clash with competition laws.”**

Access Now complains about price discrimination, but the business models of the Internet’s edge providers are replete with such practices. Oddly they rarely, if ever, call them out. In fact the Internet as we know it, would never have emerged without it. With zero rating, internet service providers are engaging in competitive bundling, just as the edge providers do. Generally such arrangements are pro-competitive. I described this in the attached article **“Is zero-rating just another form of (pro-competitive) bundling?”**

In **“Ice cream illustrates why you don’t need to fear zero rating”**, I describe how zero rating is similar to the free sample one is offered at the ice cream store. If one likes chocolate, one is unlikely to try vanilla at full price because one is unsure whether she will like it. If, however, one can have a free sample, the risk and cost of trying something new is reduced. Zero rating works in the same way, by reducing one’s search costs to experience new internet content she might otherwise not find.

In **“Would a ban on zero rating throw the baby out with the bathwater?”** I describe how economists and competition experts distinguish between beneficial and harmful competition and cooperation and how such a distinction can be made with zero rating. It is important not to ban zero rating outright as that amounts to one group imposing an aesthetic or ideological prohibition (as Access Now proposes) on a population, and that itself is harmful consumer welfare.

In my paper **“Evaluating the Consequences of Zero-Rating: Guidance for Regulators and Adjudicators”** I summarize the economic analysis and pro-competitive arguments for zero rating and present five questions to help regulators determine whether to investigate a particular instance of zero rating. The questions are

1. What perfect or very close substitutes would the zero rating offer foreclose?
2. Does the usage of zero rated application cost to the operator less than equivalent usage of non-zero rated applications?
3. Is zero rated access to a subset of applications intended to increase the number of individuals using the Internet?
4. Which party makes the zero rating complaint?

5. Is zero rating being used to access a site for which the user then pays a fee?

Access Now advocates for flat rate internet service, which is itself a form of price discrimination. Flat rate service is nothing more than the zero rating of the entire Internet. However their wish to impose a particular business model on the Internet is a form of a regulatory takings that forces end users to pay for content they don't want and will never see. It is an anticompetitive practice which deprives consumers of their freedom of choice.

Thank you for considering these comments and feel free to contact me for any questions or clarifications. My positions reflect my own views and not necessarily those with any of my affiliates. Moreover I have received no compensation to submit these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bronwyn Howell', with a stylized, cursive script.

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